

Amendment and Response

Applicant: John P. Rebhorn et al.

Serial No.: 09/781,581

Filed: February 12, 2001

Docket No.: 5487USA

Title: PORTABLE, STACKED CONTAINER AND METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS, ESPECIALLY CEREAL AND MILK

REMARKS

This Amendment is responsive to the Office Action mailed April 24, 2002. In that Office Action, a Restriction Requirement directed to the inventions of Group I (claims 1 – 33) and Group II (claims 34 – 38) was recited, along with an indication of a previous oral Election without traverse to prosecute the invention of Group I. Claims 1, 4 – 7, 13, and 20 – 24 were rejected under 35 U.S.C. §102(b) as being anticipated by Siegel et al., U.S. Patent No. 5,209,909 (“Siegel”). Claims 1 – 3, 5 – 7, 12 – 20, 22 – 25, 28 – 31, and 33 were rejected under 35 U.S.C. §102(b) as being anticipated by Dickerson, U.S. Patent No. 5,706,980 (“Dickerson”). Claims 8 – 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dickerson. Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dickerson in view of Ours et al., U.S. Patent No. 6,264,068 (“Ours”). Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dickerson in view of Newarski, U.S. Patent No. 5,496,575 (“Newarski”). Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dickerson in view of Newarski and Siegel. Claim 32 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dickerson in view of Siegel. Finally, claims 1 – 33 were provisionally rejected under the judicially-created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claims of co-pending U.S. Application Serial No. 09/781,583 in view of one or more of Dickerson, Ours, Siegel, and Newarski. With this Response, the previous election of Group I is confirmed; claims 34 – 38 cancelled; claims 1, 15, 20 – 22, 24, and 25 amended; and newly presented claims 39 – 43 added. It is believed that all claims are now in a condition for allowance.

Restriction Requirement

Applicant hereby confirms the oral election without traverse to prosecute the invention of Group I (claims 1 – 33). In conjunction with this election, claims 34 – 38 have been cancelled.

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Provisional Rejections

With respect to the provisional rejections of claims 1 – 33 under the judicially-created Doctrine of Obviousness-Type Double Patenting, an appropriate Terminal Disclaimer relating to U.S. Application Serial No. 09/781,583 is included with this Response. It is respectfully submitted that in light of this Terminal Disclaimer, all obviousness-type double patenting rejections have been traversed.

35 U.S.C. §§102, 103 Rejections

Aspects of the present invention relate to a dual, stacked compartment container for, or that, separately storing and dispensing two consumable products. The container is configured to facilitate consumable product dispensement at desired flow rates, while promoting sanitized assembly thereof. To this end, preferred embodiments of the container impede potentially hazardous, un-sanitized re-use by an unsuspecting consumer. It is respectfully submitted that none of the cited references teach or otherwise suggest the claimed invention.

For example, amended claim 1 relates to a portable, single-use container for containing two consumable products and includes a first, outer compartment and a second, inner compartment. The first compartment includes a bottom, a side wall, and a radially extending annular rim. The second compartment includes a base, a side wall, and a radially extending annular lip. In this regard, the lip forms a pour opening. Upon final assembly, the second compartment nests within the first compartment such that the lip abuts the rim and the base is spaced from the bottom. It is respectfully submitted that none of the cited references teach or otherwise suggest at least these limitations.

For example, Siegel relates to a decontaminant or sterilant concentrate package used for sterilizing or disinfecting medical instruments (Siegel, column 1, lines 25 – 29). The package includes two cups, the bottoms of which 66, 76 frictionally engage one another upon assembly as best shown in FIG. 7 of Siegel. Thus, Siegel does not anticipate amended claim 1. Further, Siegel cannot be viewed as rendering amended claim 1 obvious by itself or in conjunction with other references. In particular, Siegel does not qualify as analogous prior art. In order to rely on

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a reference as a basis for a rejection of a claimed invention, "the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker* 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Siegel relates to the decontamination art and, the field of packaging powdered sterilant reagents for use in disinfecting medical instruments (Siegel, column 1, lines 25 - 29). This is entirely unrelated to the field of pending application's containers. Stated otherwise, an inventor devising a new consumable product container would not logically have considered a medical instrument sterilizing package. Clearly, the powdered reagents of the Siegel package are not consumable. Further, the disinfectant packaging of Siegel is not reasonably pertinent to the particular problem associated with the present invention. In particular, the present invention not only addresses the problem of separately containing consumable products, but also facilitating optimal consumption thereof by a consumer through pre-defining pour openings and a fluid passageway. The Siegel packaging does not dispense the sterilant reagent through an upper aperture 84; instead, the aperture 84 is only provided for filling purposes. The sterilant reagents are released from the Siegel package via knives 14 that pierce the package's bottom (best shown in FIG. 4 of Siegel). Thus, not only does Siegel represent an entirely different field of endeavor, but is in no way pertinent to the problem addressed by the present invention. These facts are highly similar to those presented in *In re Oetiker*, where the applicant claimed an improvement in a hose clamp which differed from the prior art by the presence of a pre-assembly "hook" that maintained the pre-assembly condition of the clamp and disengaged automatically when the clamp was tightened. The court held that a reference relating to fasteners for garments was not analogous to the hose clamp invention. In reaching this conclusion, the court disagreed with the Board's reasoning that all hooking problems are analogous. Similar, with respect to the present invention, not all packaging or containment problems are analogous. In summary, packaging a sterilant powdered reagent is not analogous to separately containing, and facilitating dispensement thereof, two consumable products. As such, Siegel cannot be used as part of an obviousness rejection for any of the pending claims as it is not analogous prior art.

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Amended claim 1 is further not taught or otherwise suggested by Dickerson. Dickerson provides an outer cup and an inner cup, with the inner cup being tilted upon final assembly. As best shown in FIG. 3 of Dickerson, neither of the inner or outer cups forms a radially-extending rim or lip, respectively, as otherwise required by amended claim 1. Further, Dickerson cannot be viewed as suggesting such a configuration. In particular, Dickerson specifically relies on a compression seal between side surfaces (29) of the inner and outer cup side walls, respectively, to seal the outer container 20 (except at the liquid opening 32 and vent opening 30 as described below). Were the Dickerson inner and outer cups to be modified to include the annular, radially-extending rim and lip, respectively, of amended claim 1, these components would greatly impede, if not prevent, achieving this requisite compression seal as contact between the rim and lip would occur prior to sealing between the side surfaces 29.

In light of the above, it is respectfully submitted that amended claim 1 is not taught or otherwise suggested by the cited references.

Claims 2 – 14 depend from amended claim 1. As previously described, amended claim 1 is not taught or otherwise suggested by the cited references. Therefore, claims 2 – 14 are similarly allowable. Further, Applicant respectfully disagrees with the Examiner's assertion that Dickerson anticipates the language of claim 7, whereby an upper plane defined by the lip (of the inner compartment) is substantially parallel with a lower plane defined by the bottom (of the outer compartment). As shown in FIGS. 1 – 3 and 7 – 9C, Dickerson consistently teaches that the inner cup 22 is tilted relative to a base portion of the outer cup, such that the lip of the inner cup 22 is not substantially parallel with a bottom of the outer cup 20. Although Dickerson mentions that the outer cup can be entirely cylindrical (column 5, lines 34 – 37), this description does not alter Dickerson's overall design limitation that the inner cup be tilted relative to the outer cup. Thus, even with a cylindrical outer cup, the teachings of Dickerson are limited to the inner cup being tilted relative to the outer cup upon final assembly such that the lip of the inner cup will still be non-parallel relative to the bottom of the outer cup.

Amended independent claim 15 relates to a packaged good article including a container, a first consumable product, and a second consumable product. In this regard, the container

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includes first and second compartments, with the first compartment including an annular, radially-extending rim and the second compartment includes an annular, radially-extending lip. For the reasons previously described with respect to amended claim 1, it is respectfully submitted that amended claim 1 is not taught or otherwise suggested by the cited references, and in particular, Dickerson.

Claims 16 – 19 depend from amended claim 15. As previously described, amended claim 15 is not taught or otherwise suggested by the cited references. As such, claims 16 – 19 are similarly allowable.

Amended independent claim 20 relates to a container for containing two consumable products and includes a first, outer compartment and a second, inner compartment. The second compartment is configured to nest within the first compartment and includes a base defining a non-circle perimeter. Support for this limitation is found, for example, in FIGS. 3B and 4. This configuration promotes formation of a sufficient spacing (fluid passageway) between the assembled first and second compartment side walls. None of the cited references, either alone or in combination, teach or otherwise suggest at least this limitation. In particular, each of the cited references provide an inner compartment having a base or bottom, the perimeter of which defines a circle. Notably, a majority of the embodiments of Dickerson relate to the outer compartment forming a pour opening (in contrast to the limitations of amended claim 20). In fact, the only Dickerson embodiment in which the inner cup 22 defines a pour opening is shown in FIGS. 6A and 7, while the pour opening 32 is defined by the inner cup 22. However, due to the tilted nature of the inner cup upon final assembly and as shown in FIG. 7, the liquid channel 28 does not extend to the bottom wall. In other words, none of the Dickerson embodiments form the inner cup bottom wall to define anything other than a circle in perimeter. As such, it is respectfully submitted that amended claim 20 is not taught or otherwise suggested by the cited references.

Amended claim 21 depends from amended claim 20. As previously described, amended claim 20 is not or otherwise suggested by the cited references. As such, amended claim 21 is similarly allowable.

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Amended independent claim 22 is directed toward a container for separately containing two consumable products and includes a first, outer compartment and a second inner compartment. The first compartment includes a bottom and an annular rim; whereas the second compartment includes a base and an annular lip, with a pour opening being formed through the lip. Upon assembly of the first and second compartments, the second compartment nests within the first compartment such that the base of the second compartment is spaced from the bottom of the first compartment. Further, an internal storage region of the first compartment is sealed except at the pour opening defined in the second compartment lip. It is respectfully submitted that none of the cited references teach or otherwise suggest at least these limitations. For example, the Siegel sterilant powdered reagent package entails frictional engagement between inner and outer cups, in contrast the language of amended claim 22. Further, for the reasons previously described, Siegel is non-analogous art and thus is not available as part of an obviousness analysis. Dickerson, on the other hand, specifically includes not only a liquid opening 32, but also a vent channel 46 with a vent opening 30. Upon assembly of the inner cup 22 to the outer cup 20, both the liquid opening 32 and the vent opening 30 are open. While in some embodiments, Dickerson envisions implementation of a separate lid that arguably effectuates sealing of both the vent and liquid openings 30, 32, prior to assembly of the lid, the vent opening 30 is always open such that the outer cup storage region is open (or not sealed) at both a pour opening and a vent opening. This is direct contrast to the language of amended claim 22. Further, Dickerson cannot be viewed as suggesting elimination of the vent opening, as to do so, would, in Dickerson's view, undesirably affect liquid flow (Dickerson, column 4, lines 45 - 47). As such, it is respectfully submitted that amended claim 22 recites allowable subject matter.

Claim 23 depends from amended claim 22. As previously described, amended claim 22 is not taught or otherwise suggested by the cited references. Therefore, claim 23 is similarly allowable.

Amended independent claim 24 relates to a container for separately containing two consumable products and includes a first, outer compartment and a second, inner compartment.

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The first compartment includes a bottom and an annular rim. The second compartment includes a base and a lip forming a pour opening. Upon final assembly, the second compartment is nested within the first compartment, with the lip being permanently affixed to the rim. The base is spaced from the bottom, and an upper plane defined by the lip is substantially parallel with a lower plane defined by the bottom. It is respectfully submitted that none of the cited references teach or otherwise suggest at least these limitations. Once again, the Siegel cup bottoms are frictionally engaged upon assembly, and thus are not spaced from one another. Further, for the reasons previously described, Siegel is non-analogous art, and thus is unavailable as part of an obviousness analysis. With respect to Dickerson, and as previously described with respect to claim 7, Dickerson does not teach or suggest the upper plane of the lip being substantially parallel with a lower plane of the first compartment bottom. Further, the Dickerson cups are not permanently affixed to one another. Instead, Dickerson specifically promotes the re-useable nature of its container via consumer disassembly, and subsequent cleaning, of the inner and outer cups (Dickerson, column 7, lines 11 – 13). In fact, even with the disposable embodiment of FIG. 8, the inner and outer containers 22, 20, the inner container is simply inserted into the outer container, forming a seal along the seal surface 29 (Dickerson, column 9, lines 44 – 61). Importantly, with respect to this one embodiment, Dickerson does not allude to any affixment technique other than the compression-type seal associated with all other embodiments. Once again, this compression seal is specifically not permanent, and readily allows disassembly of the inner and outer cups. Due to this specific disassembleable attribute, then, Dickerson does not teach or otherwise suggest the limitations of amended claim 24. As such, it is respectfully submitted that amended claim 24 is allowable over the cited references.

Amended independent claim 25 relates to a method of manufacturing a portable container separately containing two consumable products. The method includes providing a first, outer compartment and a second, inner compartment. The outer compartment includes an annular rim, whereas the second compartment includes an annular lip forming a pour opening. In this regard, the second compartment is placed into the first compartment such that the lip rests on top of the rim. It is respectfully submitted that Dickerson, as cited by the Examiner, does not teach or

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otherwise suggest at least these limitations. In particular, and as previously described, the alleged lip and rim components of Dickerson are specifically configured to not rest on top of one another. Instead, Dickerson relies upon a compression seal generated by interface between the compartment side walls. This sealing technique of Dickerson would be impeded, if not prevented, by modifying Dickerson to include an inner compartment lip that rests on top of an outer compartment rim. As such, it is respectfully submitted that amended claim 25 recites allowable subject matter.

Claim 26 – 33 depend from amended claim 25. As previously described, amended claim 25 is not taught or otherwise suggested by the cited references. Therefore, claims 26 – 33 are similarly allowable. Additional distinctions exist.

For example, claim 26 recites additional steps including covering the second compartment after dispensing a second consumable product therein, sanitizing an exterior of the second compartment, sanitizing the first compartment, and dispensing a first consumable product into the first compartment and placing the second compartment into the first compartment. With this technique, the first consumable product is contained within a sanitized environment. As agreed by the Examiner, Dickerson is entirely silent on sanitization of the compartments, let alone providing a sanitized environment for the first consumable product. This is not surprising given Dickerson's formation of the liquid opening 32 and the vent opening 30 that are always open. That is to say, sanitizing of the liquid-containing compartment of Dickerson is of no value because the liquid flow and vent openings are always open, thus exposing the contained liquid to contamination. Newarski, on the other hand, while alluding to aseptically packaged milk, does not suggest the methodology of claim 26. In particular, Newarski provides a container 10 including a liquid container 12 and a dry food container 14. The container 12 is entirely separate from the container 14. That is to say, milk 13 is entirely enclosed by the container 12, and is never in contact with the container 14. As such, there is no need to sanitize an exterior of the dry food container 14 as otherwise required by claim 26. In fact, Newarski is entirely silent as to sanitizing efforts, or a methodology by which milk is introduced into the milk container 14. Newarski does not describe the order in which milk and cereal are dispensed into the respective

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containers 12, 14, let alone sanitizing of the milk container 14. As such, it is respectfully submitted that claim 26 recites additionally allowable subject matter.

Claim 27, similar to claim 26 recites additional steps for achieving containment of a first consumable product within the first compartment in a sanitized environment. For the reasons previously described, none of the cited references, either alone or in combination, teach or otherwise suggest the steps of claim 27. Once again, due to the exposed liquid flow and vent openings of Dickerson, the outer, milk-containing compartment of Dickerson cannot provide a sanitized environment. In fact, Dickerson does not even mention sanitization of the respective cups. Newarski, on the other hand, is entirely unconcerned with sanitizing two separate compartments, and in fact is entirely silent on sanitization efforts. Finally, it is respectfully submitted that the Examiner's reliance on Siegel is misplaced as Siegel is non-analogous art for the reasons previously described. Nonetheless, Siegel cannot be viewed as teaching sealing of the second compartment pour opening prior to placing the second compartment into the first compartment as otherwise required by claim 27. To the contrary, Siegel requires that the opening associated with the inner cup 70 must be open following assembly to the outer cup 60 so that filling of the cups 60, 70 can occur via the feed tubes 90, 92 as shown in FIG. 7 of Siegel. As such, it is respectfully submitted that claim 27 is further distinguished over the cited references.

Newly Presented Claims

Newly presented claim 39 depends from claim 1. As previously described, claim 1 is not taught or otherwise suggested by the cited references. As such, claim 39 is similarly allowable. In addition, claim 39 recites that the bottom of the first compartment defines a non-circle perimeter. Support for this limitation is found, for example, in FIGS. 3B and 4. For the reasons previously described with respect to amended claim 20, it is respectfully submitted that claim 39 recites additionally allowable subject matter.

Newly presented claim 40 depends from amended claim 1. As previously described, claim 1 is not taught or otherwise suggested by the cited references. As such, claim 40 is

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similarly allowable. Further, claim 40 recites that the first and second compartment side walls each form an increased diameter shoulder. Support for this limitation is found, for example, in FIG. 4. These so-formed shoulders facilitate assembly of the compartments. None of the cited references teach or otherwise suggest shoulders. As such, claim 40 recites additionally allowable subject matter.

Newly presented claim 41 depends from amended claim 1, and recites that upon final assembly, the second compartment side wall and base are the only portions of the second compartment extending below the rim of the first compartment. Support for this limitation is found, for example, in FIG. 4. As previously described, amended claim 1 is not taught or otherwise suggested by the cited references. As such, claim 41 is similarly allowable.

Newly presented claim 42 depends from amended claim 1, and recites that the lip of the second compartment is linear in transverse cross-section. Support for this limitation is found, for example, in FIG. 4. As previously described, amended claim 1 is not taught or otherwise suggested by the cited references. As such, claim 42 is similarly allowable.

Newly presented claim 43 depends from amended claim 1 and recites that the lip of the second compartment is not snap-fitted to the rim of the first compartment. Support for this limitation is found, for example at page 15, lines 30 – 31. As previously described, amended claim 1 is not taught or otherwise suggested by the cited references. As such, claim 43 is similarly allowable.

CONCLUSION

It is believed that all claims are now in a condition for allowance. Notice to that effect is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 500471.

Attached hereto is a marked-up version of the changes made to the specification and/or the claims by the current Amendment. The attached pages are captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

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The Examiner is invited to contact the Applicants' Representative at the below-listed telephone number if there are any questions regarding this response.

Respectfully submitted,

John P. Rebhorn et al.,

By their attorneys,

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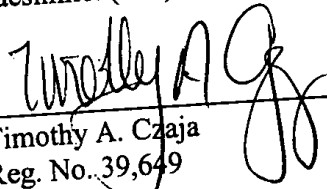
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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Commissioner for Patents, Washington, D.C., 20231 on this 24th day of July, 2002.

By 
Name: Timothy A. Czaja

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John P. Rebhorn et al.

Examiner: Robert A. Madsen

Serial No.: 09/781,581

Group Art Unit: 1761

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Docket No.: 5487USA (G180.138.101)

Due Date: July 24, 2002

Title:

PORTABLE, STACKED CONTAINER AND METHOD FOR SEPARATELY
STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

AMENDMENT AND RESPONSE

Commissioner for Patents
Washington, D.C. 20231

**VERSION WITH MARKINGS
TO SHOW CHANGES MADE**

Dear Sir/Madam:

This Amendment is responsive to the Office Action mailed April 24, 2002. Please amend the above-identified patent application as follows:

IN THE CLAIMS

Please cancel claims 34 – 38.

Please add claims 39 – 43.

Please amend claims 1, 15, 20 – 22, 24, and 25 as follows:

1.(Amended) A portable, single-use container for separately containing two consumable products, the container comprising:

a first, outer compartment including:

a bottom,

a first compartment side wall extending from the bottom and defining a first compartment internal storage region,

an annular rim ~~formed at~~ extending radially outwardly from a top of the first

compartment side wall;

a second, inner compartment including:

a base,

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a second compartment side wall extending from the base and defining a second compartment internal storage region,
an annular lip ~~formed at~~ extending radially outwardly from a top of the second compartment side wall,
a pour opening formed through the lip, offset from the second compartment internal storage region; and
a cover secured to the lip;

wherein upon final assembly, the second compartment nests within the first compartment such that the lip abuts the rim, the base is spaced from the bottom, and a fluid passageway is established between an interior surface of the first compartment side wall and an exterior surface of the second compartment side wall, the fluid passageway fluidly connecting the first compartment internal storage region and the pour opening.

2. The container of claim 1, wherein the first compartment is configured to contain a liquid consumable product and the second compartment is configured to contain a dry consumable product.
3. The container of claim 2, wherein the first consumable product is milk and the second consumable product is cereal.
4. The container of claim 1, wherein the lip rests on top of the rim.
5. The container of claim 1, wherein the lip is affixed to the rim.
6. The container of claim 1, wherein the first compartment internal storage region is completely sealed.

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7. The container of claim 1, wherein an upper plane defined by the lip is substantially parallel with a lower plane defined by the bottom.
8. The container of claim 1, wherein a diameter of the bottom of the first compartment is approximately 2.2 inches.
9. The container of claim 1, wherein the annular lip has a minimum radial width of approximately 0.125 inch.
10. The container of claim 1, wherein the pour opening is elongated, having a major diameter of approximately 0.25 inch.
11. The container of claim 1, wherein the annular lip forms a radial extension having an increased radial width relative to a remainder of the lip, the pour opening being formed in the radial extension.
12. The container of claim 1, wherein the first compartment side wall forms a spout defining the fluid passageway.
13. The container of claim 1, wherein the first container side wall is formed of a flexible material such that the first container side wall can be squeezed to provide a temporary increased flow rate through the pour opening.
14. The container of claim 1, wherein the second compartment side wall forms a recess opposite the pour opening.
15. (Amended) A packaged, good article comprising:
a portable, single-use container comprising:

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a first, outer compartment including:

a bottom,

a first compartment side wall extending from the bottom and defining a

first compartment internal storage region,

an annular rim ~~formed at~~ extending radially outwardly from a top of the

first compartment side wall,

a second, inner compartment including:

a base,

a second compartment side wall extending from the base and defining a

second compartment internal storage region,

an annular lip ~~formed at~~ extending radially outwardly from a top of the

second compartment side wall,

a pour ~~hole-opening~~ opening formed through the lip, offset from the second

compartment internal storage region,

a cover secured to the lip;

a first consumable product sealed within the first compartment; and

a second consumable product contained within the second compartment;

wherein upon final assembly, the second compartment nests within the first compartment

such that the lip abuts the rim and a fluid passageway is established between an

interior surface of the first compartment side wall and an exterior surface of a

second compartment side wall, the fluid passageway allowing passage of the ~~milk~~

first consumable product from the first compartment internal storage region to the

pour opening.

16. The packaged good article of claim 15, wherein the second consumable product is a dry consumable product.

17. The packaged good article of claim 16, wherein the dry consumable product is cereal.

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18. The packaged good article of claim 15, wherein the first consumable product is a liquid consumable product.

19. The packaged good article of claim 18, wherein the liquid consumable product is milk.

20.(Amended) A portable, single-use container for separately containing a two consumable products, the container comprising:

a first, outer compartment including:

a bottom,

a first compartment side wall extending from the bottom and defining a first compartment internal storage region,

an annular rim formed at a top of the first compartment side wall;

a second, inner compartment including:

a base defining a non-circle perimeter,

a second compartment side wall extending from the base and defining a second compartment internal storage region,

an annular lip formed at a top of the second compartment side wall,

a pour opening formed through the lip, offset from the second compartment internal storage region; and

a cover secured to the lip;

wherein upon final assembly, the second compartment nests within the first compartment ~~and the lip is affixed to the rim~~, and further wherein a fluid passageway is established between an interior surface of the first compartment side wall and an exterior surface of the second compartment side wall, the fluid passageway fluidly connecting the first compartment internal storage region and the pour opening.

21.(Amended) The container of claim ~~22~~20, wherein the lip is ultrasonically welded to the rim.

Amendment and Response

Applicant: John P. Rebhorn et al.

Serial No.: 09/781,581

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Docket No.: 5487USA

Title: PORTABLE, STACKED CONTAINER AND METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS, ESPECIALLY CEREAL AND MILK

22.(Amended) A portable, single-use container for separately containing two consumable products, the container comprising:

a first, outer compartment including:

a bottom,

a first compartment side wall extending from the bottom and defining a first compartment internal storage region,

an annular rim formed at a top of the first compartment side wall;

a second, inner compartment including:

a base,

a second compartment side wall extending from the base and defining a second compartment internal storage region,

an annular lip formed at a top of the second compartment side wall,

a pour opening formed through the lip, offset from the second compartment internal storage region; and

a cover secured to the lip;

wherein upon ~~final~~ assembly of the first and second compartments, the second compartment nests within the first compartment such that the base is spaced from the bottom and the first compartment internal storage region is sealed except at the pour opening, and further wherein a fluid passageway is established between an interior surface of the first compartment side wall and an exterior surface of the second compartment side wall, the fluid passageway fluidly connecting the first compartment internal storage region and the pour opening.

23. The container of claim 22, wherein the cover is sealed to the lip, encompassing the pour opening, and further wherein the lip is sealed to the rim.

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24.(Amended) A portable, single-use container for separately containing two consumable products, the container comprising:

a first, outer compartment including:

a bottom,

a first compartment side wall extending from the bottom and defining a first compartment internal storage region,

an annular rim formed at a top of the first compartment side wall;

a second, inner compartment including:

a base,

a second compartment side wall extending from the base and defining a second compartment internal storage region,

an annular lip formed at a top of the second compartment side wall,

a pour opening formed through the lip, offset from the second compartment internal storage region; and

a cover secured to the lip;

wherein upon final assembly, the second compartment nests within the first compartment

and the lip is permanently affixed to the rim, and further wherein lip abuts the rim, the base is spaced from the bottom, and a fluid passageway is established

between an interior surface of the first compartment side wall and an exterior surface of the second compartment side wall, the fluid passageway fluidly

connecting the first compartment internal storage region and the pour opening,

and further wherein an upper plane defined by the lip is substantially parallel with

a lower plane defined by the bottom.

25.(Amended) A method of manufacturing a portable, single-use container separately containing two consumable products, the method comprising:

providing a first, outer compartment including a bottom, a first compartment side wall

and an annular rim;

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~~providing~~ providing a second, inner compartment including a base, a second compartment

side wall and an annular lip, the lip forming a pour opening;

dispensing a first liquid-consumable product into the first compartment;

dispensing a quantity of a second consumable product into the second compartment;

placing the second compartment into the first compartment such that lip ~~abuts~~ rests on top

of the rim; and

sealing the lip to the rim;

wherein a fluid passageway is established between an exterior surface of the second compartment side wall and an interior surface of the first compartment side wall for allowing passage of the first consumable product from the first compartment to the pour opening.

26. The method of claim 25, further comprising the steps of:

a) covering the second compartment, including the pour opening, after dispensing the second consumable product;

b) sanitizing an exterior of the second compartment;

c) sanitizing the first compartment; and

d) dispensing the first consumable product into the first compartment and placing the second compartment into the first compartment after sanitizing the first compartment;

wherein upon final assembly, the first consumable product is contained within a sanitized environment.

27. The method of claim 25, further comprising the steps of:

a) sanitizing the first compartment;

b) sanitizing the second compartment;

c) dispensing the first consumable product into the first compartment;

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- d) sealing the pour opening before placing the second compartment into the first compartment; and
- e) dispensing the second consumable product into the second compartment after placing the second compartment into the first compartment and sealing the lip to the rim; wherein upon final assembly, the first consumable product is contained within a sanitized environment.

28. The method of claim 25, wherein dispensing a first consumable product includes dispensing a liquid consumable product into the first compartment.

29. The method of claim 28, wherein the liquid consumable product is milk.

30. The method of claim 25, wherein dispensing a second consumable product includes dispensing a dry consumable product.

31. The method of claim 30, wherein the dry consumable product is cereal.

32. The method of claim 25, wherein securing the lip to the rim includes ultrasonically welding the lip to the rim.

33. The method of claim 25, further comprising:

providing a cover; and

sealing the cover to the second compartment lip, the cover being configured such that with at least partial removal of the cover from the second compartment, the pour opening and at least a portion of the second compartment are exposed to allow dispensing of the first and second consumable products, respectively.

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34.(Cancelled) ~~A method for dispensing a two consumable products from a portable, single-use container, the method comprising:~~

~~providing a container including a first, outer compartment containing a first consumable product, a second, inner compartment containing a second consumable product, and a cover covering the second compartment, wherein the second compartment includes an annular lip forming a pour opening and is nested within the first compartment such that the lip abuts and is secured to an annular rim of the first compartment and a fluid passageway to the pour opening is established between an interior surface of the first compartment and an exterior surface of the second compartment;~~

~~removing at least a portion of the cover to expose the pour opening and at least a portion of the second compartment;~~

~~grasping the container; and~~

~~substantially simultaneously dispensing a portion of the first consumable product from the pour opening and a portion of the second consumable product from the second compartment.~~

35.(Cancelled) ~~The method of claim 34, wherein grasping the container includes grasping the container with a single hand.~~

36.(Cancelled) ~~The method of claim 34, further comprising:~~

~~placing the container into a cup holder after dispensing at least a portion of the first consumable product and the second consumable product.~~

37.(Cancelled) ~~The method of claim 34, wherein the first consumable product is a liquid consumable product and the second consumable product is a dry consumable product.~~

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38.(Cancelled) ~~The method of claim 37, wherein the dry consumable product is a cereal and the liquid consumable product is milk.~~

Please add newly presented claims 39 – 43 as follows:

--39.(Newly Presented) The container of claim 1, wherein the bottom of the first compartment defines a non-circle perimeter.

40.(Newly Presented) The container of claim 1, wherein the side walls each form an increased diameter shoulder proximate the respective tops, the shoulders corresponding in height to facilitate assembly of the compartments.

41.(Newly Presented) The container of claim 1, wherein upon final assembly, the second compartment side wall and the base are the only portions of the second compartment extending below the rim of the first compartment.

42.(Newly Presented) The container of claim 4, wherein the lip is linear in transverse cross-section.

43.(Newly Presented) The container of claim 5, wherein the lip is not snap-fitted to the rim.--